

LUCAS COUNTY COMMON PLEAS COURT

JEFFREY W. SWIECH, and
 JENNIFER A. SWIECH, on behalf of themselves
 and as the parents and natural guardians of
 their minor children, H.W.S., A.E.S., and C.R.S.
 6005 Indian Trl.
 Sylvania, Ohio 43560

and

JAMES SCOTT VANDERWEELE, and
 NICOLE RENEE VANDERWEELE, on behalf of
 themselves and as the parents and natural
 guardians of their minor child K.D.V.
 5558 Wood Trace Ct.
 Sylvania, OH 43560

plaintiffs,

vs.

BOARD OF EDUCATION OF SYLVANIA CITY
 SCHOOL DISTRICT,
 4747 North Holland Sylvania Road,
 Sylvania, OH, 43560

and

JIM WOLPERT, in his official capacity as
 director of transportation,
 c/o Sylvania City Schools
 4747 North Holland Sylvania Road,
 Sylvania, OH 43560

defendants.

Case No. _____

Judge _____

**Verified complaint for TRO,
 preliminary, and permanent
 injunctions**

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 Benjamin G. Padanilam (0101508)
 Mayle LLC
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1. Plaintiffs are taxpayers and residents living with their minor school-aged children within the territorial boundaries of the defendant board of education's public school district.
2. Plaintiffs' children are entitled to transportation to and from their grammar (K-8) school under R.C. 3327.01 in a manner that is equal to the level of service offered to students and families who attend public school.
3. By law, federal moneys and then state moneys are used to pay for transportation under R.C. 3327.01.
4. Plaintiffs' children attend school at St. Joe' Sylvania, which is a religious, Catholic school.
5. Plaintiffs Mr. and Mrs. Swiech are the parents of three St. Joe students: H.W.S., A.E.S. and C.R.S., who are respectively in 5th grade, 3rd grade, and kindergarten this upcoming school year. H.W.S. is diagnosed with ADHD and requires an individualized educational plan and appropriately-timed doses of medication, which will be highly impractical, if not impossible, under defendants' announced bussing plan.
6. Plaintiffs Mr. and Mrs. Vanderweele are the parents of K.D.V., who is an incoming kindergartner.
7. Plaintiffs bring this action for their own benefit and for the benefit of their children.

8. Defendant board of education, through its school district, is required to provide plaintiffs' children transportation to and from their schools under R.C. 3327.01.
9. Defendant Wolpert is the district's director of transportation and is sued in his official capacity.
10. While the several States of the Union may not necessarily be constitutionally required to provide transportation for students to attend religious schools, once a State—such as Ohio—makes the choice to do so, it must treat religious students equally to non-religious students.
11. The State of Ohio, through enactment of R.C. 3327.01 has made the choice, subject to exceptions not applicable here, to provide transportation to kindergarten through eighth students, including religious students, which includes plaintiffs' children, to attend their respective schools, whether public, nonsectarian private, or religious.
12. Defendants have accepted the obligation to transport all children equally.
13. Therefore, the defendants must treat plaintiffs' children equally.
14. However, for the upcoming school year, defendants have announced an intent to provide lesser service to students who attend religious schools.
15. Those students predominately attend area Catholic grade schools—St. Joe Sylvania, Christ the King, and St. Benedict, with most of the affect children, including plaintiffs' children, attending St. Joe Sylvania.

16. At the same time, defendants have decided to prioritize transportation for public high school students even though such students, unlike plaintiffs' children, are *not* entitled to transportation under Ohio law, which, under R.C. 3327.01 makes the transportation of high school students wholly discretionary.
17. Defendants plan is to bus all public school students to and from their schools in what might be considered a "Cadillac" plan, while forcing students who attend religious schools, including plaintiffs' young children, to ride buses with older, high school students, travel to local public high schools, exit the first bus at a high school, wait at that high school, and then transfer onto a second bus that will then eventually deliver the children to their Catholic grade schools. This will deliberately cause longer ride times for students who attend religious schools.
18. For instance, defendants have indicated that the Swiech's children would be picked up this year at 6:35 a.m. despite an 8a.m. start time. Defendants could not yet even give Mr. and Mrs. Vanderweele a pickup time yet, but it will be far earlier than necessary for an 8a.m. start time. This is because plaintiffs' children, because they attend a nonpublic school because of their Faith, will be forced to ride high-school busing, unlike other grammar school students who attend public school. These latter students will get preferential transportation to and from school, as will high school students (who are not entitled to transportation).

19. For students like plaintiffs' children, this all has the effect is to increase ride times, decrease safety, cause confusion, and otherwise provide lesser service to religious-school students in comparison to all others.
20. This has the collective effect of discouraging nonpublic school students from riding the bus, or perhaps even forgoing attending religious schools.
21. Aware of the lesser service provided to students who attend Catholic schools, defendant Wolpert sent an email, uncovered as part of the public-records request, to colleagues within the Sylvania schools, including superintendent Dr. Veronica Motley, advising on how to "spin" an announcement about the new policy so "**public parents**" wouldn't think that their children would be affected by the new policy.
22. Dr. Motley, fully aware of the lesser service that would be offered to the religious-school students, replied, "**Yes, I agree.**" *See attached.*
23. As a practical matter due to their children's ages and needs, plaintiffs will be forced to forgo using Sylvania morning, and potentially afternoon, bussing this year absent an injunction from this court despite being residents, electors, and taxpayers of the local school district. This will negatively affect plaintiffs' lives.
24. Attending a religious school is a key element of each plaintiffs' and their children's (and their families') sincerely held religious beliefs.

25. The United States Sixth Circuit Court of Appeals has recently recognized, for example, that attending a Catholic school, is important because “Catholic social teaching is interwoven into many secular subjects.” *Catholic Monclova Christian Academy v. Toledo-Lucas Cnty. Health Dept.*, 984 F.3d 477, 480, reh’g denied (Jan. 6, 2021).
26. Defendants’ anticipated bussing plan is a change from last school year and past practice. in Sylvania.
27. Last year, plaintiffs’ children were given, or would have been given, equal treatment and taken to and from their Catholic schools without layovers or transfers at area high schools. And their children were not assigned buses with high school students on board—just as the public school students were not. In sum, they were treated similarly to public school children.
28. The defendants did not treat one group as “Catholic” or “religious” children and the others as “public” children; rather, they were just all treated as equal children.
29. Defendants’ new plan is unlawful in at least three respects:
 - a. Defendants have a statutory obligation under R.C. 3327.01 to transport students “to and from” their school, which implies no transfers or layovers at school where the students do not attend class;

b. Defendants have a constitutional obligation to afford equal treatment in providing transportation. The planned dissimilar treatment violates the guarantee of equal protection under the Ohio constitution and under the United States Constitution; and

c. Defendants anticipated plan offends the Free Exercise and Free Speech Clauses of the First Amendment of the United States constitution and under the Free Exercise Clause of Art. I, Sec. 7 of the Ohio constitution.

30. Conditioning (or otherwise withholding) the safest, most direct, and most efficient transportation service on attending public school over a religious school is blatantly violative of the federal and state constitutions.

31. *Therefore*, this court should issue a temporary restraining order to preserve the *status quo*. That is, the same form of equal bussing offered to plaintiffs' children during the immediately preceding school year. This court should also issue preliminary and permanent injunctions barring unequal or lesser transportation for students who attend religious schools and a mandatory injunction requiring equality. Plaintiffs have no other adequate remedy at law.

32. *Wherefore*, plaintiffs demand judgment in their favor, plus an award of costs, including fees, and any other available relief.

Respectfully submitted,

/s/ Andy Mayle

Transportation Bullet points

vmotley@sylvaniaschools.org Veronica Motley
 To: aaddington@sylvaniaschools.org Amy Addington
 Cc: jwolpert@sylvaniaschools.org James Wolpert

Tuesday, June 14, 2022 at 7:34:43 PM Eastern Daylight Time

Hi Amy,

As promised I am sending the bullet points for communication for our non-public schools.

Let's chat in the morning...

- non public school students will be transported on Sylvania Schools buses.
- non public school students will be transported to a Sylvania School and then ride a transfer bus to their private school
- public and non public school students will be picked up/dropped off together at a designated bus stop(s)
- Elementary students will have priority seating in the front of the bus in order to implement age appropriate XXX
- Please note, K-12 transportation on one bus is not uncommon in the State of Ohio. In fact, many school districts, including Sylvania Schools already have this transportation model in place. We will expand this model in order to provide consistent and reliable transportation for all students in our Sylvania residential area

Let's try and send this communication to non publics tomorrow.

Thanks team!

--

Dr. Veronica Motley

Superintendent

Bradley J. Rieger Administration
 Building
 4747 N. Holland Sylvania Rd.
 Sylvania, Ohio, 43560

P: (419) 824-8501

F: (419) 824-8600

vmotley@sylvaniaschools.org

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jwolpert@sylvaniaschools.org James Wolpert
 To: vmotley@sylvaniaschools.org Veronica Motley
 Cc: aaddington@sylvaniaschools.org Amy Addington

Wednesday, June 15, 2022 at 7:53:31 AM Eastern Daylight Time

I would suggest adding to the last bullet point after k-12 transportation : including the mix of non-public and public kids. We don't want the public parents to think all of our buses will be going k-12.. Just a suggestion.

Thanks

Jim

On Tue, Jun 14, 2022 at 7:35 PM Veronica Motley <vmotley@sylvaniaschools.org> wrote:

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Jim Wolpert
Director of Transportation
Sylvania Schools

vmotley@sylvaniaschools.org Veronica Motley

Wednesday, June 15, 2022 at 9:33:33 AM Eastern Daylight Time

To: jwolpert@sylvaniaschools.org James Wolpert, aaddington@sylvaniaschools.org Amy Addington

Yes, I agree. I've added my two cents.... Would you all take a look?

Amy, Can you reach out to Jim? I have a 10:00 over at Lourdes. I will take another peek around 10:45 or so.

Thanks team,
Veronica

On Wed, Jun 15, 2022 at 7:54 AM James Wolpert <jwolpert@sylvaniaschools.org> wrote:

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Jim Wolpert
Director of Transportation
Sylvania Schools

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JEFFREY W. SWIECH
Notary Public - State of Ohio
My Commission Has no Expiration

Verification affidavit: Board of Education lawsuit

Lucas County

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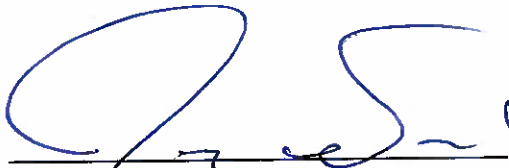
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SS

State of Ohio

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1. I am over 18 years of age and of sound mind.
2. I have reviewed the complaint in this matter and hereby verify it to be true based upon my own personal knowledge. We seek immediately relief in this case.



JEFFREY W. SWIECH

On August 10, 2022 and after first being sworn under oath, each affiant listed above personally appeared before me and gave their testimony and signature under penalty of perjury.


Notary Public



MARGARET A BERGMAN
Notary Public
State of Ohio
My Comm. Expires
April 3, 2026



Notary Public